

## **REMARKS**

The elected claims now in the case are 1-7, 9-17, 19-23, 38, 39 and 50-52.

We respectfully traverse the Examiner's rejections of the pending claims and submit that the Examiner has not made the best rejection available although it too must fail. The previous attorney of record made much commercial literature of Automated Packaging and competitors of record but appears not to have cited their patents.

Cronauer 5,417,639 entitled Bags and Method of Making Same issued May 23, 1995 discloses a chain of open top bags having different face and back materials. We submit a rejection on Cronauer in view of Weiss et al (or Applicant's admission that sterilizable bags are known) is more to the point.

But, it is not that simple. Applicant's product is new and unobvious because he has made an enabling disclosure of how to produce what was not made before, perhaps because no one thought it possible. At least as best we can determine it was applicant who determined that suitable lines of weakness could be made to enable the production of a sterilizable bag product suitable for use on one of Automated's machines such as the H 100 and competitive products.

We will promptly supplement this submission with a declaration of Applicant confirming that he approached a dozen (we believe all) companies licensed by DuPont to make sterilizable packages utilizing the Tyvek medical grade product. Not one of the licensees was willing to attempt to produce Applicant's product disclosed and claimed here. Indeed, some of them stated flatly that they could not.

It remained for applicant to experiment and test to prove that the product here claimed and described with an enabling disclosure is indeed a viable product. Note that the art does

suggest sterilizable bags of the type disclosed and claimed by Applicant connect by perforations or other lines of weakness for facile separation. Rather a user either uses individual sterilizable bags or utilizes sheets with multiple bags connected together. A user of such a sheet must cut the bags apart with scissors or other cutting implement.

To complete the record, we enclose copies of U.S. patents 5,444,035 and 5,556,826 cited in the specifications and 5,417,639 cited here.

We respectfully submit that the elected claims are each patentable over the art and any reasonable combination of it and the claims are distinguishable one from the another. Accordingly, reconsideration and a prompt notice of allowance are respectfully requested. While Applicant reserves the right to file a divisional application on his novel and non elected process, the Examiner is authorized to, upon allowance, cancel the remaining non elected claims.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Thomas E. Fisher", written over a horizontal line.

By Thomas E. Fisher  
Registration 18, 271